

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 LORRIE M. YOST, State Bar No. 119088  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 322-8150  
6 Facsimile: (916) 324-5567

7 Attorneys for Complainant

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11  
12 In the Matter of the Petition to Revoke Probation  
Against:

13 **ANDREA DEE TERRY, aka**  
14 **ANDREA DEE BOYLES, aka**  
**ANDREA DEE MYER**  
15 108 West North Street  
Oakdale, California 95361

16 Registered Nurse License No. 389271  
17 Public Health Nurse Certificate No. 40356

18 Respondent.

Case No. 2000-138

**PETITION TO REVOKE  
PROBATION**

19  
20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Petition to Revoke Probation solely in her official  
23 capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of  
24 Consumer Affairs.

25 **License History**

26 2. On or about August 31, 1985, the Board issued Registered Nurse License  
27 Number 389271 ("license") to Andrea Dee Terry, also known as Andrea Dee Boyles, also known  
28 as Andrea Dee Myers ("Respondent"). Effective August 20, 2000, the license was surrendered to

1 the Board, pursuant to a Decision and Order. Effective April 7, 2006, the license was reinstated  
2 following Respondent's Petition for Reinstatement, as set forth below. The license will expire  
3 on March 31, 2009.

4 **Certificate**

5 3. On or about July 29, 1986, the Board issued Public Health Nurse  
6 Certificate Number 40356 to Respondent. Effective August 20, 2000, the certificate was  
7 surrendered to the Board, pursuant to a Decision and Order. Effective April 7, 2006, the  
8 certificate was reinstated following Respondent's Petition for Reinstatement, as set forth below.  
9 The certificate will expire on March 31, 2009

10 **Prior Discipline**

11 4. In a disciplinary action entitled, *In the Matter of Accusation Against*  
12 *Andrea Dee Boyles, aka Andrea Dee Meyer*, Case No. 2000-138, the Board issued a Decision  
13 and Order, effective August 20, 2000, in which Respondent surrendered her Registered Nurse  
14 License Number 389271 and her Public Health Nurse Certificate Number 40356. A copy of the  
15 Decision and Order in Case No. 2000-138 is attached as Exhibit A and is incorporated by  
16 reference.

17 **Petition for Reinstatement**

18 5. On July 22, 2005, Respondent petitioned for reinstatement of her  
19 Registered Nurse License Number 389271 and Public Health Certificate No. 40356. Effective  
20 April 7, 2006, in the case entitled, *In the Matter of the Petition for Reinstatement by Andrea Dee*  
21 *Terry, Petitioner*, OAH No. L2005110021, the Board granted Respondent's petition and  
22 reinstated Registered Nurse License Number 389271 and Public Health Certificate No. 40356.  
23 However, the license and certificate were revoked, the revocation was stayed, and Respondent's  
24 license and certificate were placed on three years probation with certain terms and conditions of  
25 probation. A copy of the Decision and Order is attached as Exhibit B and is incorporated by  
26 reference.

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1                   9.       Respondent's probation is subject to revocation because she failed to  
2 comply with Probation Condition No. 2, referenced above. The facts and circumstances  
3 regarding this violation are that Respondent failed to comply with Probation Conditions Nos. 16  
4 and 17, as set forth below.

5                                   **SECOND CAUSE TO REVOKE PROBATION**

6                   **(Abstain from Use of Controlled Substances and Psychotropic Drugs)**

7                   10.       At all times after the effective date of Respondent's probation,  
8 Condition No. 16, has stated:

9                   **Abstain from Use of Controlled Substances and Psychotropic**  
10 **(Mood-Altering) Drugs.** Respondent shall completely abstain  
11 from the possession, injection or consumption by any route of all  
12 controlled substances and psychotropic (mood altering) drugs,  
13 including alcohol, except when the same are ordered by a health  
14 care professional legally authorized to do so as part of documented  
15 medical treatment. Respondent shall have sent to the Board, in  
16 writing and within fourteen (14) days, by the prescribing health  
17 professional, a report identifying the medication, dosage, the date  
18 the medication was prescribed, the Respondent's prognosis, the  
19 date the medication will no longer be required, and the effect on  
20 the recovery plan, if appropriate.

21                   Respondent shall identify for the Board a single physician,  
22 nurse practitioner or physician assistant who shall be aware of  
23 Respondent's history of substance abuse and will coordinate and  
24 monitor any prescriptions for Respondent for dangerous drugs,  
25 controlled substances or mood-altering drugs. The coordinating  
26 physician, nurse practitioner, or physician assistant shall report to  
27 the Board on a quarterly basis Respondent's compliance with this  
28 condition. If any substances considered addictive have been  
prescribed, the report shall identify a program for the time limited  
use of any such substances.

21                   The Board may require the single coordinating physician,  
22 nurse practitioner, or physician assistant to be a specialist in  
23 addictive medicine, or to consult with a specialist in addictive  
24 medicine.

24                   11.       Respondent's probation is subject to revocation because she failed to  
25 comply with Probation Condition No. 16, referenced above. The facts and circumstances  
26 regarding this violation are that Respondent failed to abstain from alcohol on the following dates:

<u>Date</u>	<u>Test Result</u>
September 27, 2006	Positive/Alcohol

October 18, 2006 Positive/Alcohol

December 13, 2006 Positive/Alcohol

December 20, 2006 Positive/Alcohol

**THIRD CAUSE TO REVOKE PROBATION**

**(Submit to Tests and Samples)**

12. At all times after the effective date of Respondent's probation, Condition No. 17 has stated:

**Submit to Tests and Samples.** Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

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1                   13.     Respondent's probation is subject to revocation because she failed to  
2     comply with Probation Condition No. 17, referenced above. The facts and circumstances  
3     regarding this violation are that Respondent failed to respond to requests for random drug testing,  
4     as follows:

5                   2006:

6                   July 24, August 7, August 17, October 31, November 29

7                   2007:

8                   March 13, March 23, April 25, April 26, May 31, June 5, June 13,

9                   July 15, July 18

10                  14.     Respondent's probation is subject to revocation because she failed to  
11     comply with Probation Condition No. 17, referenced above. The facts and circumstances  
12     regarding this violation are that Respondent failed to respond to requests for random drug testing,  
13     as follows:

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Revoking the probation that was granted by the Board in  
5 Case No. 2000-138 and imposing the disciplinary order that was stayed, thereby revoking  
6 Registered Nurse License Number 389271 and Public Health Nurse Certificate Number 40356  
7 issued to Andrea Dee Terry, also known as Andrea Dee Boyles, also known as Andrea Dee  
8 Myers;
- 9 2. Revoking or suspending Registered Nurse License Number 389271 issued  
10 to Andrea Dee Terry, also known as Andrea Dee Boyles, also known as Andrea Dee Myers;
- 11 3. Revoking or suspending Public Health Nurse Certificate Number 40356  
12 issued to Andrea Dee Terry, also known as Andrea Dee Boyles and Andrea Dee Myers; and,
- 13 4. Taking such other and further action as deemed necessary and proper.  
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15 DATED: 1/9/08

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18 RUTH ANN TERRY, M.P.H., R.N.  
19 Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
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BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement:

**ANDREA DEE TERRY**

Registered Nurse License No. 389271

Petitioner.

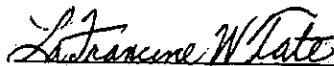
OAH No. L2005110021

**DECISION**

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on APRIL 7, 2006.

IT IS SO ORDERED this 3<sup>th</sup> day of APRIL 2006.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement By:

**ANDREA DEE TERRY,**

Petitioner.

OAH No. L2005110021

**DECISION**

This matter was heard by a quorum of the Board of Registered Nursing (Board) on December 1, 2005, in Glendale, California. The Board members participating in the hearing and decision were LaFrancine Tate, Public Member, President; Jill Furillo, RN, Vice President; Carmen Morales-Board, MSN, NP, RN; Elizabeth O. Dietz, Ed.D., RN, CS-NP; Grace Corse, RN; Janice Glaab, Public Member, Mary C. Hayashi, Public Member; Orlando H. Pile, M.D.; and Susanne Phillips, MSN, RN, APRN-BC, FNP. Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, presided.

Petitioner Andrea Dee Terry represented herself.

Sharon F. Cohen, R.N., Supervising Deputy Attorney General, represented the Office of the Attorney General, California Department of Justice.

Jurisdictional documents were presented. Testimony was taken and oral argument given. The matter was submitted, following which the Board met in an executive session, and the matter was decided the same day.

On December 28, 2005, a decision was sent from the Office of Administrative Hearings to the Board. On January 9, 2006, Christina Sprigg, Board Enforcement Program Analyst, returned that decision to the ALJ for corrections. Specifically, the terms and conditions included in the initial decision were not accurate. The initial decision was thereafter changed so as to accurately state the Board's decision.

The below order GRANTS the petition based on the following:

### FACTUAL FINDINGS

1. On August 31, 1985, the Board issued Petitioner a Registered Nursing License No. 389271. On July 29, 1986, the Board issued Petitioner a Public Health Nurse Certificate No. 40356.
2. The Board accepted Petitioner's Surrender of both Petitioner's Registered Nursing License No. 389271 and Public Health Nurse Certificate No. 40356, effective August 20, 2000. The basis for accepting the surrender was that Petitioner engaged in: unprofessional conduct, obtaining a controlled substance by fraud/deceit or subterfuge, use of controlled substances at places of employment, and falsifying patient records.
3. The present Petition, filed with the Board on July 22, 2005, requests reinstatement of Petitioner's Registered Nursing License because she has been sober for over six years and because she wishes to contribute to nursing again. Petitioner also produced some very complimentary letters from her current employer.
4. Petitioner has clearly rehabilitated. Reinstating her license on a probationary basis, with appropriate terms, will not jeopardize the public.

### LEGAL CONCLUSIONS

1. The burden in a petition for reduction of an administrative penalty rests, at all times, with the petitioner. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The burden of the Petitioner herein is to establish by clear and convincing evidence that she is entitled to the requested relief. (Business and Professions Code §2760.1, subd. (b).)
2. Cause exists to reinstate Petitioner's license. Government Code section 11522 provides that a person whose license has been revoked may petition the governing agency for reinstatement, and governs such petitions unless another, more specific, statute contains different provisions. Business and Professions Code section 2760.1 specifically applies to the Board, and provides such a petition may be brought.
3. California Code of Regulations, title 16, section 1445, sets forth the following criteria used in evaluating rehabilitation of a petitioner in such matters: the nature and severity of the acts supporting prior discipline; acts committed subsequent to that discipline; the time that has elapsed between the acts leading to discipline and any subsequent acts of misconduct; compliance with terms of probation or other sanctions lawfully imposed on the petitioner; evidence of expunged convictions; and other evidence of rehabilitation.

4. In this case, the Board finds that Petitioner favorably meets the criteria that apply to her case, and she established her rehabilitation from her prior misconduct. Factual Findings 1-4.

5. However, the public will be fully protected only if such reinstatement is on a probationary basis. Both Government Code section 11522 and B&P Code section 2760.1, subdivision (e), provide the Board with authority to reinstate a license upon appropriate "terms and conditions."

6. In this case, three years probation will be sufficient for the Board to verify Petitioner's sobriety and her competency as a nurse in this state. The probationary term will include the typical conditions related to prior drug addiction and abuse. Factual Findings 1-4.

### **ORDER**

**IT IS HEREBY ORDERED** that the Petition of Respondent Andrea Dee Terry for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed, and respondent placed on probation for a period of three years on the following terms and conditions:

#### **SEVERABILITY CLAUSE –**

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" X 2" photograph of himself or herself within 45 days of the effective date of the final decision.

(2) **COMPLY WITH PROBATION PROGRAM** - Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

(3) **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(4) **RESIDENCY OR PRACTICE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

(5) **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

#### **PROVIDE DECISION**

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

(6) **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition.

#### (7) **EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS** -

Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to his or her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after he or she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

(8) **SUPERVISION** - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(9) **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

**(10) COMPLETE A NURSING COURSE(S)**

Respondent, at his or her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

**(11) COST RECOVERY - Respondent does not owe the Board any costs.**

**(12) VIOLATION OF PROBATION** – If a respondent violates the conditions of his/her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

**(13) LICENSE SURRENDER** - During respondent's term of probation, if he or she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his or her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the

circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

(14) **PHYSICAL EXAMINATION** - Within 45 days of the effective date of this decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Probation Program and respondent by telephone. Respondent shall immediately cease practice and shall not resume practice until notified by the Probation Monitor. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Probation Monitor has notified respondent that a medical determination permits respondent to resume practice.

(15) **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE** - Respondent, at his/her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Probation Program recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12 step meeting or equivalent shall be added. Respondent shall submit dated and signed

documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

**(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS**

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

**(17) SUBMIT TO TESTS AND SAMPLES** - Respondent, at his/her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend

respondent from practice pending the final decision on the petition to revoke probation or the accusation.

(18) **MENTAL HEALTH EXAMINATION** - The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his/her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Probation Program and respondent by telephone. Respondent shall immediately cease practice and may not resume practice until notified by the Probation Monitor. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Probation Monitor has notified respondent that a mental health determination permits respondent to resume practice.

(19) **THERAPY OR COUNSELING PROGRAM** - Respondent, at his/her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

IT IS SO ORDERED. This Decision shall be effective April 7, 2006.

Dated: April 3, 2006

  
LAFRANCINE TATE, Public Member,  
President, California Board of Registered  
Nursing

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JESSICA M. AMGWERD, State Bar No. 155757  
Deputy Attorney General  
3 Office of the Attorney General  
1300 "I" Street, Suite 125  
4 P.O. Box 944255  
Sacramento, California 94244-2550  
5 Telephone: (916) 445-7376  
Facsimile: (916) 324-5567  
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7 **Attorneys for Complainant**

8 BEFORE THE  
BOARD OF REGISTERED NURSING  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.: 2000-138

11 ANDREA DEE BOYLES, aka  
12 ANDREA DEE MEYER  
108 W. North Street  
13 Oakdale, California 95361

OAH No.:

**SURRENDER OF REGISTERED  
NURSE LICENSE**

14 Registered Nurse  
License No. 389271

15 Public Health Certificate 40356

16 Respondent.  
17

18 IT IS HEREBY STIPULATED AND AGREED as follows:

19 Respondent Andrea Dee Boyles, aka Andrea Dee Meyer, and Complainant Ruth  
20 Ann Terry, R.N., Executive Officer, Board of Registered Nursing, Department of Consumer  
21 Affairs, State of California, through her counsel, Deputy Attorney General Jessica M. Amgwerd,  
22 hereby stipulate that the following matters are true:

23 1. Respondent Andrea Dee Boyles is a licensee of the Board of Registered  
24 Nursing, Department of Consumer Affairs, State of California (hereinafter "Board"). On August  
25 31, 1985, the Board issued Registered Nurse License No. 389271 to Respondent. On July 29,  
26 1986 the Board issued to Respondent Public Health Nurse Certificate 40356.

27 2. An Accusation, No. 2000-138, is currently pending against Andrea Dee  
28 Boyles (hereinafter "Respondent"), before the Board. The Accusation, together with

1 all other statutorily required documents, was duly served on the Respondent. Respondent filed a  
2 timely Notice of Defense contesting the Accusation. A copy of the Accusation is attached hereto  
3 as Exhibit A and is incorporated by reference as though set forth at length herein.

4 3. At all times herein, Respondent has been licensed by the Board of  
5 Registered Nursing under License No. 389271.

6 4. Respondent has read and understands the nature of the charges alleged in  
7 the Accusation and the content and effect of this Stipulation and of the Decision and Order.

8 **WAIVER OF RIGHTS**

9 5. Respondent agrees to be bound by the terms of this Surrender and freely  
10 and voluntarily waives any right she may have in this proceeding to a hearing on the charges and  
11 allegations contained in the Accusation, to reconsideration, to appeal, to judicial review, and to  
12 all other rights which she may have under the California Administrative Procedure Act and the  
13 laws and regulations of the State of California.

14 **BASIS FOR DISCIPLINE**

15 6. Respondent admits the truth of the factual allegations contained in  
16 Accusation 2000-138. Respondent further admits that Respondent's Registered Nurse license is  
17 subject to discipline as set forth below:

18 a. Respondent was employed as a Registered Nurse by the following  
19 facilities: Lodi Memorial Hospital (from April 1993 through July 1994); Oak Valley Hospital  
20 (from May 1995 through October 1997); and Doctor's Medical Center (December 1997 through  
21 June 1999). Respondent has subjected her license to discipline under Business and Professions  
22 Code § 2761, on the grounds of unprofessional conduct, based upon the following:

- 23 (1) Respondent diverted controlled  
24 substances from her employers, Lodi  
25 Memorial Hospital, Oak Valley  
26 Hospital, and Doctor's Medical  
27 Center;  
28 (2) Respondent repeatedly  
misrepresented her wrongful  
conduct;

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- (3) Respondent illegally drove while under the influence of alcohol.
- (4) Respondent damaged property and stole a Rottweiler.
- (5) Respondent administered a rapid IV injection with a tubex syringe to patient, L.D. in October 1997, despite no physician's orders for narcotic pain medication.
- (6) Respondent illegally administered drugs to herself while at work, and diverting drugs from her employers.

b. Respondent has subjected her license to discipline under Business Professions Code § 2762, on the grounds of unprofessional conduct, based upon the following:

- (1) Diverting drugs from her employers, Lodi Memorial Hospital, Oak Valley Hospital, and Doctor's Medical Center;
- (2) Illegally driving while under the influence of alcohol; and
- (3) Damaging property and stealing a Rottweiler.

c. Respondent has subjected her license to discipline under Health and Safety Code § 11173, for fraud, deceit and, misrepresentation, based upon the following:

- (1) Diverting drugs from her employers (Lodi Memorial Hospital, Oak Valley Hospital, and Doctor's Medical Center), and falsely failing to truthfully chart information in patient records.

7. It is understood by Respondent that, in deciding whether to adopt this Surrender, the Board may receive oral and written communications from its staff and the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board or other persons from future participation in this or any other matter affecting Respondent. In the event this Surrender is not adopted by the Board, the Surrender will not become effective and may not be used for any purpose, except for this paragraph, which shall remain in effect.

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1 The surrender shall be deemed a disciplinary action which shall become part of Respondent's  
2 license history with the Board and shall be reported as such.

3 8. The foregoing admissions are made only for the purpose of this  
4 proceeding and any subsequent proceedings between Respondent and the Board, the State of  
5 California and any of its agencies, and any other government agency responsible for licensing  
6 registered nurses. In the event this Surrender is not adopted by the Board, the admissions made  
7 herein shall be null and void, and may not be used by the parties for any purpose.

8 **SURRENDER**

9 WHEREFORE, Respondent hereby Surrenders Registered Nurse license No.  
10 389271, and Public Health Certificate 403356, and agrees that:

11 1. Respondent shall surrender any pocket and/or wall license and certificate  
12 and all other evidence of California licensure or registration to the board at its offices in  
13 Sacramento, California. Said licenses and other evidence of licensure or registration shall be  
14 surrendered to a designated Board representative on or before the effective date of the decision of  
15 the board accepting this agreement to Surrender.

16 2. Respondent may not petition for reinstatement of the surrendered license  
17 for two (2) years from the effective date of this Surrender. Any and all information gathered in  
18 connection with Accusation No. 2000-128 shall be considered and any and all allegations  
19 contained in Accusation No. 2000-128 shall be deemed as true in determining whether any future  
20 reinstatement of licensure should be granted, including the admissions made herein.

21 3. When petitioning for reinstatement, Respondent understands that she  
22 would have the burden of demonstrating rehabilitative or corrective measures she has taken and  
23 of establishing that she has the necessary and current qualifications and skills to safely engage in  
24 the duties of a registered nurse within the scope of current law and accepted standards of  
25 practice. Respondent further understands that the discretion to grant reinstatement lies solely  
26 with the board and, if reinstatement is granted, the Board may impose conditions which, in its  
27 opinion, are necessary for the protection of the public.

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1                   4.       Upon reinstatement of the license, Respondent shall pay to the Board costs  
2 associated with its investigation and enforcement pursuant to business and Professions Code  
3 section 125.3 in the amount of \$ 11,511.75. Respondent shall be permitted to pay these costs in  
4 a payment plan approved by the Board.


5                                   **AGREEMENT BY RESPONDENT**

6                   I hereby state that I have read and understand the above agreement for the  
7 Surrender of my registered nurse license, and agree to be bound thereby. I understand that I have  
8 certain rights under the California Administrative Procedure Act and the laws and regulations of  
9 the State of California in regard to this matter, and I knowingly and intelligently waive those  
10 rights.

11                   I understand that I have the right to seek legal counsel at my own expense to  
12 advise me in this matter, including the legal effect of signing this document. I understand that  
13 upon the effective date of this stipulation surrendering my registered nurse license, I will have no  
14 legal right to engage in any activity requiring a valid registered nurse license issued by the  
15 Board. I understand that this surrender constitutes discipline of my license and will be reported  
16 as such.

17                   I also understand that once I sign this agreement, I shall not be permitted to  
18 withdraw from it unless it is rejected by the Board of Registered Nursing.

19 DATED: 6/1/00

20                                     
21                                   ANDREA DEE BOYLES  
22                                   aka ANDREA DEE MEYER  
23                                   R.N. License No. 389271  
24                                   Public Health Certificate 40356

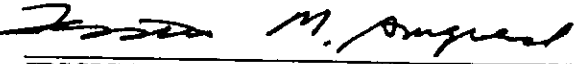
25                                   **Respondent**

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2 **ENDORSEMENT**

3 The foregoing Surrender of license is respectfully submitted for consideration by  
4 the Board of Registered Nursing.

5 DATED: 6-14, 2000

6 BILL LOCKYER, Attorney General  
of the State of California

7 By:   
8 JESSICA M. AMGWERD  
9 Deputy Attorney General

10 **Attorneys for Complainant**

11 **ACKNOWLEDGMENT**

12 I hereby state that I have read and that I understand this document. I understand  
13 that I have certain rights under the California Administrative Procedure Act and the laws and  
14 regulations of the State of California in regard to this matter, and I knowingly and intelligently  
15 waive those rights.

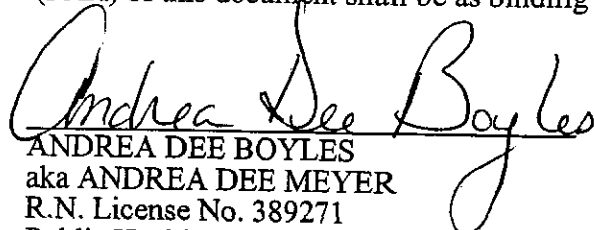
16 I understand the legal significance and consequences of this Stipulation, and I  
17 fully understand all of, and agree to be bound by, the terms of this document.

18 I further understand that this Stipulation may not be accepted by the Board of  
19 Registered Nursing, in which case it is of no effect.

20 I also understand that once I sign this Stipulation, I shall not be permitted to  
21 withdraw from it unless it is rejected by the Board of Registered Nursing.

22 I agree that a signed facsimile (FAX) of this document shall be as binding as an  
23 original signed copy.

24 DATED: 6/1/00

25   
26 ANDREA DEE BOYLES  
27 aka ANDREA DEE MEYER  
28 R.N. License No. 389271  
Public Health Certificate 40356


**Respondent**

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**DECISION AND ORDER  
OF THE BOARD OF  
BOARD OF REGISTERED NURSING**

The foregoing Surrender of Registered Nurse license number 389271, and Public Health Certificate 40356 issued to ANDREA DEE BOYLES, aka ANDREA DEE MEYER, is hereby accepted by the Board of registered Nursing and shall become effective on August 20th, 2000.

Made this \_\_\_ day of July 21st, 2000.

  
BOARD OF REGISTERED NURSING  
Department of Consumer Affairs  
State of California

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Attachment "A"

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JESSICA M. AMGWED, State Bar No. 155757  
Deputy Attorney General  
3 Office of the Attorney General  
1300 "T" Street, Suite 125  
4 P.O. Box 944255  
Sacramento, California 94244-2550  
5 Telephone: (916) 445-7376  
Facsimile: (916) 324-5567

6 **Attorneys for Complainant**

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.: 2000-138

12 ANDREA DEE BOYLES, aka  
ANDREA DEE MEYER  
13 108 W. North Street  
Oakdale, California 95361

OAH No.:

**ACCUSATION**

14 Registered Nurse  
15 License No. 389271

16 Public Health Certificate 40356

17 Respondent.

18  
19 Ruth Ann Terry, M.P.H., R.N., for causes for discipline, alleges:

20 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and files this  
21 Accusation in her official capacity as Executive Officer, Board of Registered Nursing,  
22 Department of Consumer Affairs, (hereinafter "the Board").

23 **I.**

24 **LICENSE HISTORY**

25 2. On August 31, 1985, the Board issued Registered Nurse license number  
26 389271, to Andrea D. Boyles, (hereinafter "Respondent"). On July 29, 1986 the Board issued to  
27 Respondent Public Health Nurse Certificate 40356. Respondent's license and Certificate will  
28 expire on March 31, 2001, unless renewed.

1.

Accusation

II.

RELEVANT STATUTES

3. Under Business and Professions Code § 2750, the Board of Registered Nursing may discipline any license, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

4. Under Business and Professions Code § 2764, the expiration of a license shall not deprive the Board of Registered Nursing of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Under Business and Professions Code § 125.3, the Board of Registered Nursing may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. The California Business and Professions Code § 2761, provides in pertinent part the following:

**§ 2761. Grounds for discipline; evidence of conviction**

The board may take disciplinary action against a certified or licensed nurse or an applicant for a certificate for any of the following:

(a) Unprofessional conduct, . . .

. . .

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

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1 7. The California Business and Professions Code § 2762(a) and (b) provide  
2 as follows:

3 **§ 2762. Unprofessional conduct relating to controlled**  
4 **substances or dangerous drugs**

5 In addition to other acts constituting unprofessional  
6 conduct within the meaning of this chapter it is  
7 unprofessional conduct for a person licensed under  
8 this chapter to do any of the following:

9 (a) Obtain or possess in violation of law, or  
10 prescribe, or except as directed by a licensed  
11 physician and surgeon, dentist, or podiatrist  
12 administer to himself or herself, or furnish or  
13 administer to another, any controlled substance as  
14 defined in Division 10 (commencing with Section  
15 11000) of the Health and Safety Code or any  
16 dangerous drug or dangerous device as defined in  
17 Section 4022.

18 (b) Use any controlled substance as defined in  
19 Division 10 (commencing with Section 11000) of  
20 the Health and Safety Code or any dangerous drug  
21 or dangerous device as defined in Section 4022, or  
22 alcoholic beverages, to an extent or in a manner  
23 dangerous or injurious to himself or herself, any  
24 other person, or the public or to the extent that such  
25 use impairs his or her ability to conduct with safety  
26 to the public the practice authorized by his or her  
27 license.

28 8. The California Health and Safety Code §11173 (a) and (b) state as follows:

**§ 11173. Fraud, deceit, misrepresentations**

(a) No person shall obtain or attempt to obtain  
controlled substances, or procure or attempt to  
procure the administration of or prescription for  
controlled substances, (1) by fraud, deceit,  
misrepresentation, or subterfuge; or (2) by the  
concealment of a material fact.

(b) No person shall make a false statement in any  
prescription, order, report, or record, required by  
this division.

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III.

DRUGS/DEFINITIONS

9. "Morphine/Morphine Sulfate" is a Schedule II controlled substance as designated by Health and Safety Code §11055(b)(1)(M), and a dangerous drug pursuant to Business and Professions Code §4211.

10. "Valium" is a Schedule IV controlled substance pursuant to Health and Safety Code §11057(d)(7) and a dangerous drug pursuant to Business and Professions Code §4211.

11. "Demerol" is a trade name for narcotic substance Hydro morphine, and a Schedule II controlled substance by virtue of Health and Safety Code §11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code §4211.

12. "SureMed" is a trade name for the single-unit-dose medication dispensation system that automatically tracks facts such as patient name, physician, physician orders, date and time medication was withdrawn from SureMed for administration, and the name of the licensed nurse who administered the medication.

IV.

GENERAL BACKGROUND

A. Lodi Memorial Hospital

13. Respondent was hired as a Registered Nurse with Lodi Memorial Hospital ("LMH") on April 19, 1993. In June 1994, the employees at LMH became aware that Respondent was self diverting medications that were to be given to the patients.

14. In an attempt to ameliorate the problem, the Unit Manager, of the Intensive Unit at LMH posted signs of LMH's policy regarding the wasting of narcotic substances. Respondent disregarded LMH's policy and continued to self divert.

15. On June 29, 1994 the Unit Manager and the Assistant Administrator of Nursing confronted Respondent about the diverting drugs. Respondent was placed in a Diversion Program, and transferred to a non-patient care area of LMH.

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1                   16.     On three occasions, Respondent did not pass the Diversion Program  
2 testing. As a result Respondent's failure to successfully complete the Diversion Program, LMH  
3 terminated Respondent.

4     **B.     Oak Valley Hospital**

5                   17.     In May 1995, Respondent began working for Oak Valley Hospital  
6 ("OVH"). On October 24, 1997, Respondent, in lieu of termination, resigned, after OVH  
7 employees confronted her with drug tampering and diverting controlled substances.

8                   18.     While employed at OVH in the ICCU, Respondent diverted drugs.

9     **C.     Doctor's Medical Center**

10                  19.     On December 10, 1997, Respondent was hired as a nurse for Doctor's  
11 Medical Center ("DMC"). During her employment with DMC, Respondent diverted drugs.

12                  20.     A Supervisor at DMC counseled Respondent on December 15, 1998  
13 concerning her frequency of narcotic and controlled substance administrations to patients.  
14 During this meeting, Respondent agreed in writing to request assistance from the charge nurse to  
15 obtain narcotics and to be accompanied by the charge nurse when Respondent administered  
16 controlled substances.

17                  21.     Notwithstanding Respondent's written agreement as set forth in the  
18 preceding paragraph, Respondent failed to comply. On December 21, 1998, a staff nurse  
19 colleague obtained controlled substances for Respondent. In violation of the written agreement,  
20 Respondent drew the medication and administered the medication outside the presence of a  
21 charge nurse.

22                  22.     After Respondent's access to controlled substances was re-instated,  
23 Respondent again returned to a pattern of excessive medication administrations to patients.  
24 Respondent was counseled on February 18, 1999, and given a one-day paid suspension by DMC  
25 due to the excessive medication.

26                  23.     On June 12, 1999, the Pharmacist at DMC discovered narcotics from the  
27 medication chart were tampered with. On June 16, 1999, Respondent admitted to the DMC  
28 Director of Nurses that she had taken the narcotics from DMC all along.



1 Registered Nurse as defined in Title 16, California Code of Regulations § 1444, in that it  
2 evidences a present or potential unfitness on the part of Respondent to perform the duties of a  
3 Registered Nurse in a manner consistent with the public health, safety or welfare.

4 Violation of B&P Code § 2762(a) and (b)  
5 (Use of Controlled substances)

6 28. Paragraphs 13 through 25 are incorporated herein by reference.  
7 Respondent has subjected her license to discipline under Business and Professions Code § 2762  
8 (a) by administering to herself controlled substances in violation of the Health and Safety Code.  
9 Further, Respondent has subjected her license to discipline under Business and Professions Code  
10 § 2762 (a) by administering medications to Patient Lucjan D. in October 1997, despite no  
11 physician's orders for narcotic pain medication.

12 29. Paragraph 25 is incorporated herein by reference. Respondent has  
13 committed unprofessional conduct and has subjected her license to discipline under Business and  
14 Professions Code § 2762 (b) by using alcoholic beverage to an extent or manner dangerous and  
15 injurious to herself, other people, and the public.

16 Violation of H&S Code § 11173(a) and (b)  
17 (Obtaining a Controlled Substance By Fraud/Deceit, or Subterfuge)

18 30. Paragraphs 13 through 24 are incorporated herein by reference.  
19 Respondent has subjected her license to discipline under Health and Safety Code § 11173(a) by  
20 obtaining controlled substance (including Demerol, Valium, and Morphine/Morphine Sulfate)  
21 through fraud, deceit, and subterfuge.

22 31. Paragraphs 13 through 24 are incorporated herein by reference.  
23 Respondent has subjected her license to discipline under Health and Safety Code § 11173(b) by  
24 falsely indicating on patient narcotic records that she administered drugs to patients, belying the  
25 fact that she self diverted.

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VI.

**PRAYER**

WHEREFORE, Complainant prays that this Accusation be heard and that the Board of Registered Nursing make its order:

1. Revoking or suspending Registered Nurse license number 389271, issued to Andrea Dee Boyles.

2. Ordering Andrea Dee Boyles to pay to the Board of Registered Nursing, its costs in investigating and enforcing the case according to proof at the hearing, pursuant to Business and Professions Code § 125.3.

3. Taking such other and further action as may be deemed proper and appropriate.

Dated: 2/11/00

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer

Board of Registered Nursing  
Department of Consumer Affairs  
State of California

**Complainant**

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